

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2396 of 2019

Dhanalakshmi

... Appellant

Vs.

Gopal @ Nirmalraj

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act against the fair and decretal order dated 01.08.2018 made in I.A.No.271 of 2018 in F.C.O.P.No.133 of 2017 on the file of the Learned Family Court Judge, Chengalpet.

For Appellant : Mr.T.G.Ravichandran
For Respondent : Mr.K.G.Senthil Kumar

JUDGMENT

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by the wife against the award of interim maintenance of Rs.6,000/- as against the claim of Rs.40,000/- by the Family Court, Chengalpet.

2. The appellant and the respondent got married on 22.08.2016. However, after marriage, disputes arose between the parties and they have been living separately from 11.12.2016. Thereafter, the respondent/husband filed a petition for divorce before the Family Court, Chengalpet. In the said petition, an application has been taken out by the appellant seeking indulgence. The said maintenance petition was partly allowed granting Rs.6,000/- as against the claim of Rs.40,000/-. The said order is being challenged before this Court.

3. Heard Mr.T.G.Ravichandran, learned counsel for the appellant and Mr.K.G.Senthil Kumar, learned counsel for the respondent and perused the records.

4. It is admitted by both the parties that the respondent is running a modern gym. The income derived from the gym cannot be proved by the appellant/wife, who is living away from the

respondent/husband. Therefore, the reasoning given by the Trial Court that the appellant did not adduce any evidence for the income of Rs.1,00,000/- cannot be sustained. There may not be any evidence for the income of Rs.1,00,000/-. However, by running a gym, the respondent would be earning at least Rs.30,000/- to Rs.50,000/-,. Without such amount, it is impossible for him to run the gym and therefore, Rs.6,000/- determined by the Family Court as maintenance is too low and the same is enhanced to Rs.15,000/- payable by the respondent on or before 5th of every English Calender Month.

6.In the result, the appeal is partly allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Judge,
Family Court,
Chengalpet.

+1 cc to M/s.T.G.Ravichandran, Advocate Sr.No.57490
+1 cc to M/s.K.G.Senthilkumar, Advocate Sr.No. 57708

NRL(C.O.) /AKM/ 26.08.19/ 2P- 4C /

C.M.A.No.2396 of 2019

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